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10 **UNITED STATES DISTRICT COURT**  
11 **SOUTHERN DISTRICT OF CALIFORNIA**  
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13 UNITED STATES OF AMERICA,  
14 Plaintiff,  
15 v.  
16 DYWANE TOUSANT,  
17 Defendant.

Case No.: 09-CR-1250-W

**ORDER DENYING MOTION TO  
WITHDRAW PLEA [DOC. 251.]**

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19 On November 2, 2009, Defendant pled guilty to Sex of Trafficking of Children in  
20 violation of 18 U.S.C. § 1591. On June 2, 2010, this Court sentenced him to 120 months  
21 imprisonment, 15 months of which to run concurrently with a separate state court  
22 sentence.


23 On August 9, 2021, Defendant filed a motion to reduce his sentence pursuant to 18  
24 U.S.C. § 3582(c)(1)(A). On September 16, 2021, the Court denied Defendant's motion  
25 to reduce his sentence. Defendant then filed the instant motion, alleging that due to his  
26 age, lack of knowledge of the law, and his ability to fully comprehend the charges against  
27 him and the language in the plea agreement, he should be permitted to withdraw his plea.  
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1 A trial court only has jurisdiction over a motion to withdraw from a guilty plea that  
2 occurs prior to the imposition of sentence. Fed. R. Crim. P. 11(d). Pursuant to Rule  
3 11(e), “[a]fter the court imposes sentence, the defendant may not withdraw a plea of  
4 guilty . . . and the plea may be set aside only on direct appeal or collateral attack.” Fed.  
5 R. Crim. P. 11(e).<sup>1</sup>

6 Based on the foregoing, Defendant’s motion to withdraw his plea is **DENIED**.

7 **IT IS SO ORDERED.**

8 Dated: October 27, 2021

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12 Hon. Thomas J. Whelan  
13 United States District Judge  
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27 <sup>1</sup> Pursuant to the terms of Defendant’s plea agreement, he waived his right to appeal or collaterally  
28 attack his conviction and sentence, unless the court imposed a custodial sentence greater than the high  
end of the guideline range or the mandatory minimum sentence. [Doc. 58 at 8-9.] Defendant was  
sentenced to the mandatory minimum term.